

We reject SCTC's objection that Hargray's proposed construction plan does not permit a grant of this application.⁵² Because a carrier must be recertified each year, we have the ability to review Hargray's proposals annually, as well as its past performance.⁵³ We agree with Hargray that telecommunications carriers' plans beyond two years are generally an educated guess.⁵⁴

We find that designation of Hargray's application will foster positive economic development in South Carolina. Companies considering locating to, or moving from, rural areas include the quality of wireless communications networks within their analysis. Improving and modernizing the state's wireless infrastructure will provide rural citizens with the ability to take advantage of new business opportunities.⁵⁵

We find that Hargray's designation will promote affordable telephone service because Hargray offers a local service rate plan that costs \$20 per month and provides unlimited local calling to all numbers located within three counties in South Carolina and sixteen counties in Georgia.⁵⁶

Hargray has made detailed commitments to provide high-quality service throughout the proposed service area for which it seeks designation.⁵⁷ The mobility of Hargray's wireless service will provide further benefits to consumers, such as access to emergency services in geographically isolated areas.⁵⁸ Hargray's designation as an ETC also will potentially allow its

⁵² Tr. 219.

⁵³ Tr. 193 at lines 15-18.

⁵⁴ Tr. 179 at lines 10-15.

⁵⁵ Tr. 50 at lines 7-18; Tr. 121 at lines 4-10.

⁵⁶ Tr. 41 at lines 17-22.

⁵⁷ See generally Hargray Application; 2006 Amendment at pp. 5-6; June 18 Letter; letter dated June 20, 2007, from William W. Jones, Jr. to Charles L.A. Terreni ("June 20 Letter"); Tr. 17 at lines 3-14; Tr. 47-48.

⁵⁸ See Tr. 121 at lines 11-22. The FCC and other states have recognized the benefit of wireless service as a public interest factor in ETC designations. See, e.g., *Corr Wireless Communications, LLC, Petition for Designation as an*

customers to be subject to fewer toll charges and provide customer access to premium services such as caller ID, voice call notification, short digit dialing, short messaging services, Internet browsing, content download, multi-media picture and large text file transfer and email to the wireless handset.⁵⁹

Hargray has committed to comply with the CTIA Consumer Code for Wireless Service.⁶⁰ It has also committed to comply with the FCC's rules set forth at 47 C.F.R. Section 54.202 and 54.209, consistent with this Commission's recent Order No. 2007-424 regarding this Commission's interim ETC standards for designation of ETC status.⁶¹ We find that these commitments to service quality will serve the public in Hargray's proposed ETC service area and assist the Commission in determining on a continuing basis the level of service quality being provided by Hargray.

Similar to the Gulf Coast states, South Carolina's position on the eastern seaboard makes it vulnerable to storms and hurricanes. As such, the availability of high-quality wireless service in the state is essential to providing for the health and safety of our citizens.⁶² Hargray's commitment to use support to expand its service area, increase redundancies, and improve the

Eligible Telecommunications Carrier in the State of Alabama, 21 FCC Rcd 1217, 1226, paras. 25-26 (2006) ("The mobility of telecommunications assists consumers in rural areas who often must drive significant distances to places of employment, stores, schools, and other locations. The availability of a wireless universal service offering also provides access to emergency services that can mitigate the unique risks of geographic isolation associated with living in rural communities."); In the Matter of the Application of USCOC of Greater Missouri, LLC for Designation as an Eligible Telecommunications Carrier Pursuant to the Telecommunications Act of 1996, Case No. TO-2005-0384 (Missouri PSC, May 13, 2007) at p. 12 ("Clearly, expansion of cell phone service would benefit consumers by giving them an additional option for phone service, by allowing them additional mobility, and by affording them increased safety while on the road or otherwise away from the end of a telephone wire."); In the Matter of the Application of Alltel Communications of Nebraska, Inc., for Designation as an Eligible Telecommunications Carrier Pursuant to Section 214(e)(2) of the Communications Act of 1934, Application No. C-3497 (Neb. PSC, March 7, 2006) at pp. 16-17.

⁵⁹ Tr. 46 at lines 5-9.

⁶⁰ 2006 Amendment at pp. 1-2; Tr. 18 at lines 5-8.

⁶¹ See 2006 Amendment; Tr. 53-56.

⁶² Tr. 49 at lines 15-19.

capacity of its wireless system will provide significant benefits to those rural consumers who depend on wireless service.⁶³ Hargray has demonstrated that its network requires improvements and its five-year plan sets forth detailed commitments to construct additional facilities designed to deliver the benefits set forth above. Because we have the ability to review Hargray's performance each year, we will be able to ensure that South Carolina's rural citizens see the benefits that Hargray has promised and that the Congress intended to deliver when it authorized competitive carriers.

While growth in the size of the federal USF is a major concern, it is a federal issue that must be addressed at the federal level. We would note this statement from the FCC regarding the acquisition of Alltel Corporation by Atlantis Holdings, LLC: "Although the [FCC] has not yet adopted the Joint Board's recommendation, this transaction implicates the Joint Board's recommendation."⁶⁴ We consider this to indicate that the FCC is indeed beginning to bring the growth in the federal USF under control.

On balance, therefore, we find that the advantages of designating Hargray an ETC in these rural and non-rural areas in South Carolina outweigh any disadvantages and as such, designation would serve the public interest.

As more fully explained below, we conclude that the designation of Hargray as an ETC in the rural and non-rural study areas identified in Exhibits B, C, and D to Hargray's original Application is in the public interest. The relevant Study Area designations are as follows:

240479 VERIZON SOUTH-SC
240506 UTC OF THE CAROLINAS

⁶³ See Tr. 121.

⁶⁴ See FCC Memorandum Opinion and Order in WT Docket No. 07-128 – *Applications of ALLTEL Corporation, Transferor, and Atlantis Holdings LLC, Transferee For Consent To Transfer Control of Licenses, Leases and Authorizations* at p.9

240512 BLUFFTON TEL. CO.
240523 HARGRAY TEL. CO.

The wire centers for each of the Rural ILECs not requiring service area redefinition are listed on Exhibit C of Hargray's Application and are shown on the map attached as Exhibit A to the Application. The wire centers for non-rural ILECs and the rural ILECs requiring service area redefinition are listed in Application Exhibits B and D, respectively. Specific wire center codes are as follows:

The wire centers for each of the Rural ILECs listed on Exhibit C of Hargray's Application are:

HARGRAY TELEPHONE CO., INC.	HRVLSCXA	HARDEEVL
HARGRAY TELEPHONE CO., INC.	HLHDSCXA	HILTONHEAD
HARGRAY TELEPHONE CO., INC.	HLHDSCXB	HILTONHEAD
HARGRAY TELEPHONE CO., INC.	HLHDSCXC	HILTONHEAD
BLUFFTON TELEPHONE CO., INC.	BFTNSCXA	BLUFFTON
BLUFFTON TELEPHONE CO., INC.	BFTNSCAQ	MOSS CREEK

The wire center code for the Verizon South wire center (non-rural) listed on Exhibit B is:

Yemassee: YMSSSCXA

The wire center codes for the rural ILEC wire centers listed on Exhibit D of Hargray's Application are:

UNITED TELEPHONE CO. OF THE CAROLINAS	BUFTSCXA	BEAUFORT
UNITED TELEPHONE CO. OF THE CAROLINAS	ESTLSCXA	ESTILL
UNITED TELEPHONE CO. OF THE CAROLINAS	HMPNSCXA	HAMPTON
UNITED TELEPHONE CO. OF THE CAROLINAS	LRBYSCXA	LAUREL BAY

UNITED TELEPHONE CO. OF THE CAROLINAS	LWCNSCAA	LOW COUNTRY
UNITED TELEPHONE CO. OF THE CAROLINAS	RDLSCXA	RIDGELAND
UNITED TELEPHONE CO. OF THE CAROLINAS	STHLSCXA	ST. HELENA

Because Hargray requests ETC status in the entire study area of each of the rural telephone companies listed in Exhibit C, we are not concerned about the potential for creamskimming.⁶⁵ Conversely, because Hargray's service area differs from the study area of the rural incumbent LEC identified in Exhibit D we must perform a creamskimming analysis for these service areas. Hargray's CMRS licensed area differs from the Embarq study area and it will be unable to provide facilities-based service to that portion of Embarq's study area where it is not licensed to serve.⁶⁶ For the reasons explained below and consistent with the FCC's findings in its *Virginia Cellular Order* and the *Highland Cellular Order*, we find it appropriate to designate Hargray for an area less than the entire study area of Embarq because we conclude that such designation is unlikely to create creamskimming concerns.⁶⁷

We find that designation of Hargray as an ETC in certain wire centers in the Embarq study area does not raise concerns about creamskimming and therefore is in the public interest.⁶⁸ Our analysis of the population density of each of the affected wire centers reveals that Hargray will not be serving only low-cost areas to the exclusion of high-cost areas. Although there are

⁶⁵ Because Hargray's requested service area includes the entire study area of these rural incumbent LECs, we do not have creamskimming concerns. *See ETC Report and Order, supra*, 20 FCC Rcd at 6392, para. 49 ("When a competitive carrier requests ETC designation for an entire rural service area, it does not create creamskimming concerns because the affected ETC is required to serve all wire centers in the designated service area.")

⁶⁶ *See Hargray Application* at p. 14; Tr. 40 at lines 8-14.

⁶⁷ *See ETC Report and Order*, 20 FCC Rcd at 6392-95, paras. 48-53; *Virginia Cellular Order*, 19 FCC Rcd at 1578-580, paras. 32-35; *Highland Cellular Order*, 19 FCC Rcd at 6434-38, paras. 26-32.

⁶⁸ *See 2006 Amendment* at Appendix F.

other factors that define high-cost areas, a lower population density generally indicates a higher cost area.⁶⁹

The average population density for the Embarq wire centers for which we grant Hargray ETC designation is 73.9 persons per square mile and the average population density for the wire centers that Hargray is not proposing to serve is 78.2 persons per square mile.⁷⁰ Thus, the wire centers that Hargray will serve have a lower population density and likely higher per line costs than the wire centers that Hargray will not serve. We find such an ETC designation will not have the effect of creamskimming, and is therefore in the public interest.⁷¹

Redefinition of Embarq Service Area

In order to designate Hargray as an ETC in a service area that is different from the affected rural telephone company study area, we must redefine the service area of the rural telephone company in accordance with section 214(e)(5) of the Act.⁷² Under section 214(e)(5), “[i]n the case of an area served by a rural telephone company, ‘service area’ means such company’s ‘study area’ unless and until the [FCC] and the States, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c), establish a different definition of service area for such company.”⁷³ Under section 54.207(c)(1), either the

⁶⁹ See *Advantage Cellular Order*, 19 FCC Rcd at 20994, n.67, citing *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, CC Docket No. 00-256, Second Report and Order and Further Notice of Proposed Rulemaking, Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Fifteenth Report and Order, *Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation*, CC Docket No. 98-77, Report and Order, *Prescribing the Authorized Rate of Return From Interstate Services of Local Exchange Carriers*, CC Docket No. 98-166, Report and Order, 16 FCC Rcd 19613, 19628, para. 28 (2001), *recon. pending* (discussing Rural Task Force White Paper # 2 at <http://www.wutc.wa.gov/rtf>).

⁷⁰ 2006 Amendment at Appendix F; Tr. 131 at lines 5-18.

⁷¹ See *Advantage Cellular Order*, 19 FCC Rcd at 20994, para. 22.

⁷² 47 U.S.C. § 214(e)(5).

⁷³ *Id.*

petitioner or the Commission must file a petition with the FCC seeking concurrence with the proposed redefinition.⁷⁴

When the Joint Board recommended that the FCC retain the current study areas of rural telephone companies as the service areas for the rural telephone companies, the Joint Board made the following observations: (1) the potential for creamskimming is minimized by retaining study areas because competitors, as a condition of eligibility, must provide services throughout the rural telephone company's study area; (2) the Act, in many respects, places rural telephone companies on a different competitive footing from other local telephone companies; and (3) there would be an administrative burden imposed on rural telephone companies by requiring them to calculate costs at something other than the study area level.⁷⁵

We find that redefining Embarq's service area as proposed will not impose administrative burdens on Embarq because it will not require the company to determine its costs on any basis other than the study area level.⁷⁶ Moreover, as discussed above, we conclude that redefining the Embarq service area so that each wire center is a separate service area should not result in opportunities for creamskimming.⁷⁷

We also note that the redefinition of these service areas, and designation of Hargray as an ETC, will allow Hargray to provide services to the least densely populated areas at issue and thus Hargray is unlikely to compete with the incumbent LEC only in the lowest cost areas. Finally,

⁷⁴ 47 C.F.R. § 54.207(c)(1).

⁷⁵ See *1996 Recommended Decision*, 12 FCC Rcd at 179-80, paras. 172-74.

⁷⁶ See *Virginia Cellular Order*, 19 FCC Rcd at 1583, para. 44. Rather, the redefinition enables competitive ETCs to serve areas that are smaller than the entire incumbent LEC study area. *Id.*

⁷⁷ See *id.* at 1582-83, para. 42. We note that any future competitive ETC designation for the redefined service area would continue to require a finding that such designation is in the public interest, including an analysis of whether such designation would result in creamskimming.

we find no evidence that the proposed redefinition will harm Embarq because redefining the service area will not change the amount of universal service support that is available to Embarq.⁷⁸ Thus, consistent with prior rural service area redefinitions and with the recommendations of the Joint Board, we redefine the requested wire centers in the study area of Embarq as a separate service area.⁷⁹

Our decision to redefine the service area of Embarq is subject to the review and final agreement of the FCC in accordance with applicable requirements under section 54.207(c) of its rules. Accordingly, we direct Hargray to petition the FCC for concurrence with the redefinition set forth in its Application, as amended, and approved herein.⁸⁰ Upon the effective date of the agreement of the FCC with our redefinition of Embarq's the service area, our designation of Hargray as an ETC in areas served by Embarq shall also take effect. If, after its review, the FCC determines that it does not agree with the redefinition proposal herein, we will reexamine Hargray's Application with regard to redefining these service areas.

IT IS, THEREFORE, ORDERED THAT:

1. Hargray is designated as an ETC, as of the effective date of this order, in the requested areas served by the non-rural telephone company Verizon South, Inc. as listed in Exhibit B to the Application.

2. Hargray is designated as an ETC, as of the effective date of this order, for the entire study area served by the rural telephone companies Hargray Telephone Company, Inc., and Bluffton Telephone Company, Inc., as listed in Exhibit C to the Application.

⁷⁸ See *id.* at 1583, para. 43.

⁷⁹ See *Federal State Board on Universal Service, RCC Holdings, Inc. Petition for Designation as an Eligible Telecommunications Carrier Throughout its Licensed Service Area in the State of Alabama*, Memorandum Opinion and Order, 17 FCC Rcd 23532, 23547, para. 37 (2002) ("RCC Alabama ETC Designation Order").

⁸⁰ We encourage Hargray to consult with the Office of Regulatory Staff as to the form of the petition.

3. *Subject to the FCC's agreement with our redefinition of service areas, Hargray is* designated as an ETC for the Embarq wire centers listed in Exhibit D to the Application. Hargray is directed to petition the FCC for concurrence with the redefinition of the service area of Embarq.

4. Hargray shall abide by the FCC's ETC designation rules set forth at 47 C.F.R. Section 54.202 and 54.209, consistent with Commission Order No. 2007-424.

5. Hargray shall abide by its commitment to provide service throughout its ETC-designated service area to all customers making a reasonable request for service, including low-income customers.

6. All federal USF funding received as a result of this Order will be used to support the expansion and improvement of services in high cost areas and provide Lifeline credits for low income customers.

7. Concurrent with the filing of this Order, the Commission will file a certification with the FCC and the Universal Service Administrative Company "within 60 days of the effective date" of this Order, as required by 47 C.F.R. Sections 54.313 and 54.314, stating that Hargray will use high-cost support "only for the provision, maintenance, and upgrading of facilities and services for which the support is intended." The certification shall specify that it covers the time period from the effective date of this Order through the end of the calendar year.

8. Should the Commission determine Hargray has not honored its commitments and plans as set forth before the Commission, or has failed to follow the applicable statutes, rules, or regulations, the Commission may deny Hargray's annual recertification as an ETC.

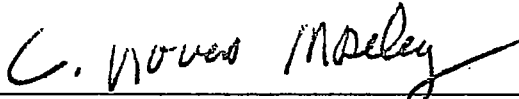
9. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



G. O'Neal Hamilton, Chairman

ATTEST:



C. Robert Moseley, Vice Chairman

(SEAL)